Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	CC Docket No. 95-185

INITIAL COMMENTS OF ICO GLOBAL COMMUNICATIONS

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TABLE OF CONTENTS

SUMMARY

ICO believes the believes the Commission must include global mobile satellite services ("MSS") within the FCC's interconnection regime. ICO services will likely be provided on a CMRS basis using global MSS transmission infrastructure and will produce significant public interest benefits in the United States. The Commission should encourage the development of this emerging class of CMRS through pro-competitive, market-based interconnection policies.

ICO recognizes that the differences between global MSS and other CMRS may require separate consideration. If necessary, the FCC should consider global MSS interconnection issues in a supplemental or separate proceeding.

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ICO Global Communications ("ICO") hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above captioned proceeding regarding interconnection between local exchange carriers ("LECs") and commercial mobile radio service ("CMRS") providers.[1] ICO fully supports the efforts of the Federal Communications Commission ("Commission" or "FCC") to employ market-based incentives and pricing to encourage the development of commercial mobile radio services, ultimately generating benefits to consumers and society as a whole. ICO's remarks here in large part respond to the Commission's request for comment on whether the FCC should consider satellite telephony-LEC interconnection as part of this proceeding.[2]

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[1] *See Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, FCC 95-505, CC Docket Nos. 95-185, (Jan. 11, 1996) (Notice of Proposed Rulemaking) ("*NPRM*"). To the extent possible, the organization of these comments reflects the Commission's filing procedures for this docket. *See NPRM*, at ¶ 132-33. Those arguments that apply to multiple sections are cross referenced for the Commission's convenience.

[2] *See NPRM*, at ¶ 1 n.1.

COMMENTS

I. GENERAL COMMENTS

A. Background

ICO Global Communications was organized in 1995 to develop, launch, and operate a global mobile satellite services ("MSS") system. The ICO system will comprise ten operational satellites and two in-orbit spares operating in intermediate circular orbit to provide complete, continuous, overlapping coverage of the Earth's surface. The system will support dual-mode cellular/satellite terminals, including hand-held terminals, capable of delivering voice, fax, and data services to both domestic and international travelers roaming outside compatible cellular coverage areas, to satellite-only users, to general aviation aircraft and small vessels, and to semi-fixed installations in rural and remote areas.

On the ground, the ICO system will employ the ICO Net, a network of interconnected earth stations or satellite access nodes ("SANs") located strategically around the globe. The SANs will provide the primary interface with the ICO satellites for routing traffic and maintaining certain subscriber data. The SANs will also link with gateways that will serve as the primary interface with public switched telephone, mobile, and data networks.

The market for global MSS services is expected to exceed many millions of subscribers and billions of dollars of revenues by the year 2010. ICO has identified a wide range of potential global MSS end user groups, including international business travelers, government and emergency personnel, and residents of rural and remote areas lacking adequate fixed or terrestrial

infrastructure. In addition to ICO, the global MSS market will include a number of competitors vying for their share of the market. ICO's competitors will likely include the three so called Big LEO operators recently licensed by the United States to provide broadly similar global mobile satellite services.

Although ICO will own and operate the system's space segment, end users will receive services through national wholesalers and retailers. In the United States, ICO services will be delivered through retailers that likely will qualify as commercial mobile radio services providers. ICO's U.S. service retailers, as distinguished from ICO wholesalers, will provide mobile services directly to end users; a role consistent with the definition of CMRS providers as given in the Communications Act,[3] and as interpreted by the Commission.[4]

B. Global MSS Interconnection

ICO encourages the Commission to consider what interconnection policies should apply to global MSS, an innovative means for delivering mobile telecommunications services around the globe, and to include global MSS satellite telephony networks within the FCC's ultimate interconnection regime. ICO urges the Commission to adopt a market-based approach to global

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[3] *See* 47 U.S.C. § 332(d). CMRS is defined as "any mobile service . . . that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission."

[4] *See Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411 (1994) ("*CMRS Second Report*"): "There are three prongs to the CMRS definition: the service must be provided for profit, it must be interconnected to the public switched network, and it must be available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public." *CMRS Second Report*, 9 FCC Rcd, at 1509. Neither ICO nor its wholesalers will provide service directly to end users. The Commission has previously determined that it will not impose common carrier CMRS obligations on the Big LEO space segment operators. *See Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands*, 9 FCC Rcd 5936, 6000-05 (1994). The Commission has retained the discretion to treat space segment capacity wholesalers as non-common carriers. *See CMRS Second Report*, 9 FCC Rcd, at 1457-58.

MSS-LEC interconnection that is consistent with the pro-competitive posture reflected in the NPRM. Allowing global MSS providers to interconnect with local exchange carriers on market-driven terms and conditions will allow consumers to enjoy the full benefits of this valuable new commercial mobile service. The Commission should encourage the development of the emerging global MSS market through policies promoting LEC-CMRS interconnection, on reasonable and non-discriminatory terms.

While ICO believes that global MSS networks must be included in the Commission's interconnection regime, ICO also recognizes that the current proceeding may not provide the proper forum for full consideration of global MSS interconnection issues. The Commission, if necessary, should consider whether global MSS present a set of circumstances sufficiently different from traditional CMRS to require a supplemental or separate proceeding solely to address global MSS interconnection. ICO notes that, while global MSS and other CMRS are similar in many respects, the distinctions between global MSS, providing mainly interexchange and international services, and other CMRS, which perform an essentially local telecommunications role, may make different treatment necessary with respect to some interconnection issues.

II. COMPENSATION FOR INTERCONNECTED TRAFFIC BETWEEN LECS AND CMRS PROVIDERS' NETWORKS

A. Compensation Arrangements

ICO fully endorses the Commission's market-based strategy for encouraging fair and efficient LEC-CMRS interconnection. In its NPRM, the Commission embraces competition as the primary means for driving telecommunications prices toward cost, thereby ensuring "optimal utilization of the network by consumers" and giving service providers "accurate information regarding the benefits and costs of introducing new services and incentives for investing in technological innovations."[5] As a new enterprise employing new technologies to expand and improve the current availability and range of applications of CMRS services, ICO approves of the Commission's approach described in the NPRM.

Global Mobile Satellite Service Providers Will Complement Existing CMRS Networks And Advance The Commission's Universal Service Goals

Because ICO services will be provided on a CMRS basis, using global MSS as the underlying transmission infrastructure, and will introduce significant public interest benefits into the United States, the Commission should ensure that global MSS providers are protected from anti-competitive interconnection practices to the same extent as other CMRS providers. Global MSS calls typically will either terminate or originate on terrestrial public switched telephone

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[5] *NPRM*, at ¶ 6.

networks, giving global MSS providers a direct interest in securing interconnection with local exchange carriers on non-discriminatory and reasonable terms and conditions. In this sense, global MSS providers share the interests of traditional CMRS providers seeking a level playing field for interconnection with local exchange networks. As the Commission acknowledges in its NPRM, efficient interconnection "benefits both subscribers and providers of services" by allowing new providers to compete with incumbent LECs and by enabling subscribers of one network to gain access to subscribers of all other interconnected networks.[6]

This policy perspective should apply equally to global MSS. This does not, however, necessarily mean that the specific interconnection arrangements suitable for established CMRS providers or for PCS (both of which carry signals on a strictly local basis, providing interexchange or international service only via PSTN interconnection) will also be suitable, and serve the same policy goals, in the case of global MSS systems, which typically perform an interexchange or international role (still in conjunction with the PSTN) and have quite different cost characteristics.

ICO envisions that a significant portion of its services will be tailored toward consumers not served by existing terrestrial networks, and thus will complement, rather than directly compete with, most CMRS providers. Global MSS will thereby provide significant public interest benefits to end users as well as the U.S. telecommunications infrastructure. Global MSS will directly advance the Commission's universal service objectives by providing mobile telecommunications service to rural and insular areas previously unserved by existing terrestrial networks.

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[6] *NPRM*, at ¶ 9.

III. INTERCONNECTION FOR THE ORIGINATION AND TERMINATION OF INTERSTATE INTEREXCHANGE TRAFFIC

ICO agrees with the Commission's tentative conclusion that CMRS providers be entitled to recover access charges from interexchange carriers on an equal basis with neighboring LECs or competitive access providers.[7] This arrangement addressing CMRS access at the interstate level will appropriately complement the Commission's pro-competitive efforts at the local level with respect to LEC-CMRS interconnection. Together, these policies will further promote the full development of competitive CMRS in the United States. It is imp0ortant to note, however, that the discussion on this subject in the NPRM, and the specific approach put forward by the Commission applies to those cases where a CMRS provider is not performing interexchange functions per se, but rather providing interexchange access, by carrying calls between the point of presence ("POP") of an interexchange carrier ("IXC") and the telephone subscriber, or part of the way to the POP, with the LEC handling the rest. If the CMRS carrier is providing interexchange carriage of traffic, an entirely different set of considerations applies.

ICO notes, therefore, that the special nature of global MSS systems require an added dimension to the Commission's interconnection regime. Global MSS, by virtue of their unique ability to provide full and continuous telecommunications coverage throughout the United States

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[7] *See NPRM*, at ¶ 116.

and worldwide, will carry a substantial amount of interexchange and international traffic over their networks. Indeed, it is probable that the majority of calls carried by global MSS systems will be of these two kinds. In advanced countries such as the United States, with extensive terrestrial CMRS coverage, the overwhelming majority of calls via global MSS systems will be interexchange or international calls.

The economic reasoning presented in the NPRM takes account only of the comparative network functions performed, and corresponding costs incurred, by LECs and by CMRS performing a strictly *local* role. Where the CMRS in question is an interexchange or international service using a global MSS system, the network functions being performed, the costs incurred, and therefore the economic considerations involved, are quite different. They deserve separate consideration, and may require a different solution.

The Commission's NPRM does not directly address international interconnection. In light of the services that will be offered by global MSS, ICO urges the Commission, whether in this proceeding or through a supplemental or separate proceeding,[8] to develop suitable approaches for interexchange and international CMRS interconnection.

Wider policy considerations must also be taken into account where the international role of global MSS is concerned. Traditionally, interconnection at the international level for fixed services has involved the application of accounting rate policies regulating bilateral correspondent agreements among international monopoly wireline carriers. Recognizing the trend toward liberalization and privatization in foreign communications markets, the Commission has recently revised its policies regarding international accounting rates to reflect

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[8] *See infra* Section VI.

the competitive and technological advances of today's communications market.[9] The Commission has reopened its international accounting rate docket (CC Docket No. 90-337) to supplemental comments in light of the Commission's revised policies. ICO has filed supplemental comments in that proceeding.[10]

Because of the changing nature of arrangements for interconnection concerning international traffic, ICO urges the Commission to consider how international interconnection policies might fit into the overall regulation of emerging services such as global MSS. At the very least, the Commission should coordinate its efforts in related areas, to avoid implementing possibly inconsistent or conflicting rules and policies. Global MSS systems present novel questions both in their technology and their regulation. ICO respectfully requests that the Commission remain cognizant of the unique implications that interconnection issues raise for global MSS providers.

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[9] *See Policy Statement on International Accounting Rate Reform*, FCC 96-37, (Jan. 31, 1996) ("Policy Statement")

[10] *See* Supplemental Comments of ICO Global Communications, *Policy Statement on International Accounting Rate Reform; Regulation of International Accounting Rates*, CC Docket No. 90-337, Phase II, (Feb. 26, 1996).

VI. OTHER

The Commission, If Necessary, Should Consider Evaluating Global Mss In A Separate Proceeding Or Proceedings

While global MSS share many characteristics with conventional CMRS, ICO notes that its services, and those of other global MSS operators, differ from other wireless services in potentially significant ways. For example, the cost structures for terminating traffic on a global mobile satellite network will likely differ from those incurred by other CMRS providers. This fact may require the Commission to devise special interconnection regimes that account for unique global MSS cost structures. In addition, the bulk of global MSS traffic will consist of interstate and international calls, raising further complicating issues such as access charge and accounting rate policies, as already discussed in these comments.[11]

Because the NPRM focuses primarily on local and intrastate CMRS network issues, the Commission should consider addressing global MSS interconnection issues in a supplementary or separate proceeding. The global MSS market is already proving to be strongly competitive, with operators and service providers scrambling to implement their systems. In light of the substantial benefits these systems will offer, the Commission should devote the time and resources necessary to develop an interconnection policy that will foster the full development of global MSS.

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[11] *See supra* Section III.

CONCLUSION

ICO respectfully urges the Commission to include global MSS networks as part of the FCC's interconnection regime. The Commission should consider the unique issues presented by this new class of CMRS providers that will provide competitive, innovative services to the U.S. market and the world. If necessary, the Commission should initiate a supplemental or separate proceeding to consider the unique issues associated with global MSS interconnection.

Respectfully submitted,

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March 4, 1996

CERTIFICATE OF SERVICE

I, Kathryn M. Stasko, do hereby certify that the foregoing **INITIAL COMMENTS OF ICO GLOBAL COMMUNICATIONS** was hand delivered on this 4th day of March, 1996, to the following:

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